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PRINCIPAL LIFE INSURANCE CO. and  
TARGET CORPORATION

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

DON BORG,

Plaintiff,

v.

PRINCIPAL LIFE INSURANCE CO.,  
TARGET CORPORATION, and DOES 1  
through 20, inclusive,

Defendants.

Case No. C-07-03149-JW

[Hon. James Ware]

**RE-NOTICE OF MOTION TO  
DISMISS OR, IN THE  
ALTERNATIVE, FOR SUMMARY  
JUDGMENT**

Date: December 3, 2007

Time: 9:00 a.m.

Location: Courtroom 8

**NOTICE OF MOTION**

PLEASE TAKE NOTICE that on December 3, 2007, at 9:00 a.m., or as soon thereafter as the matter may be heard, in the Courtroom of the Honorable James Ware, United States District Court, Northern District of California, San Jose Division, Courtroom 8, 450 Golden Gate Avenue, San Jose, California, Defendants Principal Life Insurance Company and Target Corporation (collectively "Defendants") will, and hereby do, move this Court for an order dismissing the Complaint under Fed. R. Civ. P. 12(b)(6) or, in the alternative, for summary judgment under Fed. R. Civ. P. 56. This motion is being re-noticed for hearing pursuant to the court's Reassignment Order, issued September 13, 2007, which vacated the hearing originally set for October 2, 2007 before the Hon. Howard R. Lloyd.

Defendants' motion is made on the grounds that the Complaint fails to state a claim, that there is no triable issue of fact, and that the parties' settlement of a case previously before this Court, *Borg v. Principal Life Ins. Co. et al.*, Case No. CV 05-05295 HRL (N.D. Cal.), was a valid and enforceable agreement by which Plaintiff released the claims he purports to pursue in the present action.

Defendants' motion is based on this Notice, the Memorandum of Points and Authorities and the Declaration of Geoffrey Graber filed on August 16, 2007, the pleadings and papers on file in this action, and such other and further evidence and argument as may be presented at the hearing on the motion.

Dated: September 18, 2007

ANGELA L. PADILLA  
EVA K. SCHUELLER  
MORRISON & FOERSTER LLP

By: /s/ Angela L. Padilla [e-filing signature]  
Angela L. Padilla

Attorneys for Defendants  
TARGET CORPORATION AND  
PRINCIPAL LIFE INSURANCE CO.